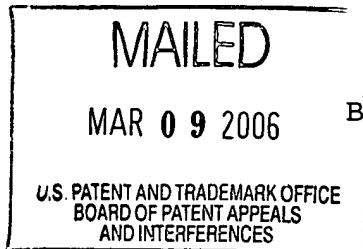


UNITED STATES PATENT AND TRADEMARK OFFICE



BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MANABU SUHARA, KAZUO SUNAHARA
NAOSHI SAITOH and TSUTOMU KATOH

Application No. 10/089,109

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on January 9, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

On March 3, 2005, appellants filed an Appeal Brief. On pages 3-4, section VI of the Brief, appellants list the grounds of rejection. In response to appellants' Brief, the examiner mailed an Examiner's Answer on June 3, 2005. On page 2, section (6) of the Answer, the examiner states that "appellant's

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[sic, appellants'] statement of the issues in the brief is correct." However, a review of the Answer reveals that the examiner has not argued the rejection of claims 1-11 as being provisionally rejected under 35 U.S.C. § 101 as that of claims 1-11 of copending application 10/743,479. Therefore, it is not clear whether the examiner has withdrawn this rejection or whether it was inadvertently omitted.

Moreover, a review of the Examiner's Answer reveals that headings contained in the Answer do not comply with the headings as set forth in the new rules under the Manual of Patent Examining Procedure (MPEP) § 1207.02 (8th ed., Rev. 3, August 2005), namely, the headings of "Summary of Claimed Subject Matter," "Grounds of Rejection to be Reviewed on Appeal," "Claims Appendix," "Evidence Relied Upon" and "Related Proceedings Appendix."

Accordingly, it is

ORDERED that the application is returned to the examiner to:

(1) provide written clarification as to the status of the rejection of claims 1-11 under 35 U.S.C. § 101;

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(2) vacate the Examiner's Answer mailed on June 3, 2005,
and issue a revised Examiner's Answer in compliance with the new
rules effective September 13, 2004; and

(3) for such further action as may be appropriate.

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AND INTERFERENCES

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